

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

DARK HORSE EXPRESS, LLC,

Plaintiff,

v.

LANCER INSURANCE COMPANY,

Defendant.

CIVIL ACTION
FILE NO.:

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Lancer Insurance Company, defendant in the above-styled action, hereby removes to this Court the State Court action described below, and respectfully shows the Court the following:

1.

A civil action was filed by the above-named Plaintiff Dark Horse Express, LLC (“Plaintiff”), in the Circuit Court for Sumner County, State of Tennessee, naming as a defendant Lancer Insurance Company, being Case No. 83CCI-2015-CV-1239. Copies of all process and pleadings filed in said civil action are attached hereto as Exhibit “1”.

2.

Said action was commenced by service of process consisting of the Summons and Complaint upon Lancer Insurance Company, through the Tennessee

Department of Commerce & Insurance, on November 16, 2015. This Notice of Removal is timely filed within thirty (30) days of such service.

3.

There is complete diversity of citizenship among the parties. This is a controversy between Plaintiff, a Tennessee Corporation with its principal place of business in Tennessee, and Lancer Insurance Company, an Illinois corporation with a principal place of business in New York. Lancer Insurance Company is not a citizen of the State of Tennessee where this action was brought.

4.

Plaintiff alleges in the Complaint that it made a demand on Lancer Insurance Company for alleged losses and damages. Plaintiff also alleges in the Complaint damages pursuant to Tenn. Code. Ann. § 56-7-105. (Complaint, ¶¶ 7-9, Prayer). The demand made by Plaintiff was for \$267,788.42 minus the amount of the cargo that was sold which was \$53,500.00. (Plaintiff's Demand Letter, 12/19/14, attached as Exhibit "2"). The amount of damages claimed by Plaintiff exceeds \$75,000.00, exclusive of interest and costs.

5.

The foregoing action is properly removable to this Court, pursuant to 28 U.S.C. §§ 1441(a), 1446(a) and 1446(b) and 1332(a), because there is a complete

diversity of citizenship between Plaintiff and Lancer Insurance Company, and the matter in controversy, exclusive of interest and costs, exceeds the sum of \$75,000.

6.

Now, within thirty (30) days after service and receipt by Lancer Insurance Company of a copy of the Summons and Complaint filed in the Circuit Court for Sumner County, State of Tennessee, notice is hereby given in accordance with 28 U.S.C. § 1446 and pursuant to Rule 11, Federal Rules of Civil Procedure, of the removal of said action to this Court.

7.

A true and correct copy of the Notice of Filing of Removal filed concurrently in the Circuit Court for Sumner County is attached hereto as Exhibit “3”.

Respectfully submitted, this 14th day of December, 2015.

SPICER RUDSTROM, PLLC

BY: s/Courtney E. Smith
Courtney E. Smith, BPR #027543
Attorneys for Defendant
Lancer Insurance Company
414 Union Street, Suite 1700
Nashville, TN 37219-1757
615-259-9080
615-259-1522
ces@spicerfirm.com

BY: s/B. Thomas Hickey, Jr.
B. Thomas Hickey, Jr., BPR #019105
Attorneys for Defendant
Lancer Insurance Company
537 Market Street, Suite 203
Chattanooga, TN 37402
423-756-0262
423-756-8489 (fax)
bth@spicerfirm.com

CERTIFICATE OF SERVICE

I certify that on this day I have served **NOTICE OF REMOVAL** on Plaintiff by placing a true and correct copy of this document in the United States Mail with sufficient postage thereon, addressed to counsel of record:

J. Ross Pepper
Pepper & Brothers, PLLC
201-4th Avenue North, Suite 1550
Nashville, TN 37219
Attorneys for Plaintiff

This 14th day of December, 2015.

/s/B. Thomas Hickey, Jr.